

To: FTB Board Members
From: Christine Grab
Date: November 15, 2018

Re: Addendum to Item 3 on My Annual Taxpayer Bill of Rights Requests

Last month, I sent you a list of six Policy Change Suggestions for the Board of Directors to consider at this year's December 10th Meeting. In my letter, I promised to send you an addendum with more details for Item 3. Here is the promised addendum:

3. Disclosure of Annual Taxpayer Bill of Rights Meeting to the General Public.

The Annual Taxpayer Bill of Rights Meeting is a California State Right, pursuant to Revenue and Taxation Code section 21006(b)(2). Even though the FTB does *technically* meet the minimum required by law to inform the public of these meetings, the reality is the FTB goes to great lengths to hide this Right from the general public, including deceiving Taxpayers with sleight of hand tricks and flat out lying to Taxpayers about its existence.

Representative Training

FTB representatives are trained to tell Taxpayers that if they are unhappy with the FTB's policies or procedures, the Taxpayer needs to contact their State Level Legislators to complain; that there is nothing the FTB can do about changing policies or laws. This, of course, is a lie. I believe that the FTB representatives have a legal obligation to inform the Taxpayers that they have the right to submit a change request at this Meeting, and that each time that they repeat this lie, they are violating California Law.

Enclosed is a letter dated July 28, 2017, from Mr. Christopher Calhoun, who works for the FTB's Department of Executive and Advocate Services. He was responding to two letters that I had written on July 20 and July 21, 2017, in which I pointed out that the FTB had provided no legal codes to justify the policy of Withholding Credit Elects. On page 4 of his letter, he wrote:

"If you are unhappy with the way the law is currently written, you may wish to contact your local legislative office and work with them to effect changes to the current tax law. You can find out who your local State Senator or Assemblyman is by visiting legislature.ca.gov."

"I apologize for the frustration you have incurred in trying to resolve these tax years with the FTB. At this point, I cannot be of further assistance to you in this matter."

Had he complied with California law, he would have disclosed that I had the legal right to make a Request to change this policy at the Annual Taxpayer Bill of Rights Meeting. Instead, he made it sound as if there were no administrative channels that could be taken within the FTB to change policies. In hiding this Right from me, Mr. Calhoun violated my State Taxpayer's Rights.

As you will recall, in Point 1 of my 2018 Annual Taxpayer Bill of Rights Request, I pointed out that the policy of withholding credit elects violated R&TC 19363. If a taxpayer files late, the FTB then demands payments of monies that would not have been due had the credit elect been applied in compliance with the law, as well as late fees, penalties and interest. This is the Federal Crime of Racketeering. **By hiding the fact that there were indeed administrative actions could have been taken to end this illegal practice, Mr. Calhoun committed yet another count of Collusion to Cover Up Racketeering.** (The first count was when he used deceptive wording and inapplicable codes to make it appear that the law said something different than it actually did, found on pages 2 and 3 of the July 28, 2017 letter. See my letter dated December 13, 2017, for more details, which was enclosed in the Annual Taxpayer Bill of Rights Meeting Requests package that I sent last month).

Remember, legislators make laws; they don't enforce them. Since there was no legislation that needed to be changed, my legislators could offer no help. Not only did Mr. Calhoun break the law by trying to deceive me into thinking a policy was legal when it clearly wasn't, not only did he break the law by denying me information about my California State Rights, he also deliberately sent me on a wild goose chase to try to get help from someone that he knew couldn't help me.

I don't believe this was rogue behavior on Mr. Calhoun's part; I believe he was merely doing exactly what he was trained to do. I believe the FTB deliberately trains their representatives to consistently violate this California State Right.

Written Notices

When the FTB sends out written correspondence, they will frequently include Form 4058, called California Taxpayer's Bill of Rights. Form 4058 conveniently omits information about the Annual Taxpayer Bill of Rights Meeting. The Taxpayer has to carefully read form 4058 to find out that form 4058C exists. The Taxpayer then has to go out of their way to find 4058C and read it to find out that the Annual Taxpayer Bill of Rights Meetings exists.

Please note that form 4058 and form 4058C are both called California Taxpayer's Bill of Rights, and the brochure covers are almost identical. I believe this was deliberately designed in order to confuse Taxpayers into thinking that 4058 and 4058C are the same brochure so that the Taxpayer never bothers to actually read 4058C and find out this right exists.

It is also important to note that Form 4058C contains no directions given on how to submit a request to the Annual Taxpayers Bill of Rights Meeting; it just discloses that you have the right to submit one. As far as I could find – and I did look – there are no instructions anywhere on the FTB's website on how to submit a request. In fact, when I type "how does someone submit a change request at the Franchise Tax Board Taxpayer Bill of Rights Annual Meeting?" into the Duck Duck Go web browser, not one single link came up that contained information on how to submit a suggestion.

The only place that I could find on the FTB website that discloses the existence of this Taxpayer Right (beyond Form 4058C) was under "Franchise Tax Board Meetings." But if you don't know this right exists in the first place, you would never think to click on "Franchise Tax Board Meetings."

As all of you Board Members know, I made this request for disclosure at last year's meeting. In the Formal Resolution that Ms. Maples signed off on, the FTB responded with "...Meeting with a representative cross-section of industry and tax professionals allows us to hear the concerns of taxpayers, the majority of which now engage tax professionals. Additionally, we contact our Trade Media partners and others prior to the annual meeting to also gauge their concerns and those of the individuals and businesses they represent."

This answer is unacceptable. Hiding this Right from the Taxpayers at large, then assigning this right to a proxy without informing the Taxpayer of this proxy system, and choosing a proxy who only represents the upper classes, thus leaving the working poor taxpayers unrepresented, is a clear violation of California State Taxpayer Rights.

I am asking the Board to implement the following Policy changes:

- A. Add information about how to submit a request to the Annual Taxpayers Bill of Rights Meeting to Form 4058C
- B. Whenever brochure 4058 is sent, 4058C should also be sent with it.
- C. Brochure 4058 Should be re-named "California Taxpayer's Bill of Rights Part 1 of 2" and 4058C should be re-named "California Taxpayer's Bill of Rights Part 2 of 2."
- D. FTB Reps should be trained to tell Taxpayers who are complaining about a policy or law that they can submit a request for policy/law change to the Annual Taxpayers Bill of Rights Meeting. The Rep can then give them the website address for form 4058C or, for those who don't have Internet access or aren't Internet savvy, can offer to mail them the brochure.

STATE OF CALIFORNIA
Franchise Tax Board
EXECUTIVE AND ADVOCATE SERVICES MS A381
PO BOX 157
RANCHO CORDOVA CA 95741-0157

07.28.2017

Christine M Grab


Dear Mrs. Grab,

Selvi Stanislaus, Executive Director of the Franchise Tax Board, asked me to respond to your letter dated 07.21.2017, regarding your 2008, 2010, 2011, 2013, and 2014 tax years.

You wrote in response to my previous letter to you, dated 07.10.2017. In your letter, you stated that I failed to address your complaints. You stated that Franchise Tax Board (FTB) set up a racketeering scheme. You stated that the FTB:

1. Set up ludicrous and unfair policies. (i.e. putting money in suspense rather than applying it to the tax year the money was designated for).
2. Charged penalties, fees, and interest based on these unfair policies.
3. Made it impossible to fight these fees (disregarding all written correspondence, having bad automated phone systems with long hold times, frequent hang-ups upon transfer to agent, poorly trained agents that are unable to help or give misinformation).

You also commented that:

1. People get frustrated with the system, give up, pay unfair fees and go away.
2. For the few that don't get frustrated and go away, the FTB stonewalls them until the deadline passes, then they have no choice but to pay and then go away.

You stated that you wanted to know how the FTB operates. The FTB's primary function is to administer the law, the Revenue and Taxation Code (R&TC), as it is written by the California Legislature. The FTB does not make tax law or charge penalties that have not been mandated by law. The FTB basically operates by administering personal and corporate tax law under the R&TC.

In your 07.21.2017 letter, responding to my 07.10.2017, you stated that I cited R&TC Section 19131. You stated, and I quote, "In your letter to me, you cited that per R&TC Section 19131, 'a penalty is assessed when the taxpayer fails to pay the amount of tax due by the original due date of the return.' But from 2010 on, we had not only paid before it was due (via money collected in previous years), but also paid in excess of what was due".

However, in actuality, the 07.10.2017 letter states, on page 1 that we are required to assess a delinquent penalty, not just "a penalty" or any penalty, when a taxpayer fails to file a tax return by the original or extended due dates of the return, and fails to pay the amount of tax due by the original due date of the return. Basically, a delinquent penalty is assessed when a tax return is filed late and the amount of tax due is not paid by the original due date of the return.

Also, note when I referenced R&TC Section 19131 delinquent penalty, information, (page 1, last paragraph), I was summarizing your 2008 tax year activity, which included the assessment of a delinquent penalty. We did not assess a delinquent penalty against your 2010 to 2015 tax years.

You stated that you did not understand how the FTB calculated penalties, and that it took you nine years to get someone to explain to you how penalties are assessed. FTB issued several notices to you over the course of several years. Our notices include an explanation of how penalties are calculated, and offer contact info for further questions.

For example, our *Income Tax Due Notices* and our *Final Notices Before Levy and Lien* contain a penalty code, which identifies which penalty is being assessed. Additionally, we include FTB 1140 MEO, *Personal Income Tax Collections Information*, with our notices, which explains in detail why the penalty was assessed and how the penalty was calculated. These notices are also located on our website, along with additional information. I have enclosed *Income Tax Due Notices*, *Final Notices Before Levy and Lien*, and *Personal Income Tax Collections Information*, for your records.

In your letter, you alluded that it is your belief that the FTB is placing rollover payments into suspense on purpose, and then charging penalties, fees, and interest on money that was "paid late". You referenced a conversation you had with a Ms. Goff in our office, regarding payments held in suspense instead of being applied to the designated tax year. You stated Ms. Goff advised you it is the law that requires the FTB to place rollover money in suspense instead of being applied to the designated tax year. You asked me to identify the law in question.

R&TC Sections 19363 and 19304 addresses credit of overpayment of estimated tax to a succeeding tax year. R&TC Section 19363 requires the FTB to give credit for overpayments of estimate taxes on the last day prescribed for filing the tax return for the taxable year, without regard to any extension for filing the return.

For example, if a taxpayer files a 2010 tax return with a refundable credit, and instructs the FTB to apply the refundable credit to the 2011 tax year, that credit is held in suspense until the 2011 tax year return is filed. Once the 2011 tax return is filed, the FTB will apply this payment effective as of the original due date of the 2011 tax return, or in this case, 04.15.2012.

R&TC Section 19304 requires the FTB to apply overpayments of estimated tax to a succeeding year. It states, in part, that the effective date of overpayment claimed as a credit against estimated tax on a timely filed return will be credited to the first estimated tax installment due for the taxable year following the original due date of the return. A similar credit claimed on a delinquent filed return will be credited to estimated tax for the year designated by the taxpayer in the delinquent return.

Based on the above referenced tax laws, we cannot apply overpayments of estimated tax to a succeeding year unless and until the income tax return for the succeeding year has been filed. Since your returns for these tax years were not filed timely, your overpayments of estimate tax to a succeeding year were held in suspense. Once the returns were filed and processed, these overpayments of estimated tax were applied to the designated tax years and given the correct effective dates.

In my previous letter, I explained to you why each penalty was assessed for each tax year. I referenced the appropriate tax law, and explained to you how to file an appeal with the Board of Equalization (BOE) if you disagreed with my decision not to abate any of the penalties we assessed. As a reminder, you have 90 days from the date of my previous letter to file your appeal with the BOE. If you fail to do so, my decision will become final.

In your letter, you stated that the FTB has a policy to disregard and ignore notices sent by taxpayers. I want to assure you that it is not FTB policy to disregard and ignore correspondence from taxpayers.

You stated that you sent in several notices that were ignored. You referenced a 70 page document you that you said you mailed to the FTB. However, during my review of your account, I was unable to locate this 70 page document.

You also stated that you attempted to call the FTB, but you were either put on hold for hours at a time, or the call dropped, or the line would be busy. Our management team is aware that taxpayers are having difficulty getting through on the phone, and are in the process of working to resolve this issue.

Finally, during my review of your account, I found that the FTB followed the law in the assessment and collection of your tax liability. The FTB protected your rights as defined by the Taxpayers' Bill of Rights, and provided you with due process. There is no scheme against you or any California taxpayer that is contrary to us upholding and enforcing the laws that dictate enforcement of the tax filing and correct payment of taxes due to California.

This was my original Abatement Request. Ms. Goff confirmed receipt of it and reviewed the documents with me. Mr. Colhan turned down my Abatement Request without reviewing my documentation.

to the inability to get through is a critical piece to all the Racketeering Schemes.

Deliberately misrepresented what Law says

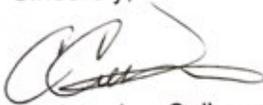
07.28.2017
Christine N. Grab
Page 4

✓ Did not disclose right
to submit at Annual Tax-
payer Bill of Rights
meeting.

If you are unhappy with the way the law is currently written, you may wish to contact your local legislative office and work with them to effect changes to the current tax law. You can find out who your local State Senator or Assemblymember is by visiting legislature.ca.gov.

I apologize for the frustration you have incurred in trying to resolve these tax years with the FTB. At this point, I cannot be of further assistance to you in this matter.

Sincerely,



Christopher Calhoun
Executive and Advocate Services

Enc.

cc: Betty Yee, California State Controller
Michael Cohen, Director, Department of Finance

To: FTB Board Members
From: Christine Grab
Date: November 15, 2018

Re: The "Lost" Payment/Bad Phone System Racketeering Scheme

In the Annual Taxpayer Bill of Rights Requests that I sent to you last month, in Point 4 I brought up the fact that last year, I had requested that the FTB put the phone number of the appropriate specialty department on the notices that are mailed. Currently, the FTB's policy is to always put the main customer service number on notices, even when the main customer service line is unable to help the Taxpayer. The FTB denied my request.

In Point 4, I also accused the FTB of running a third Racketeering scheme in which they deliberately "lose" payments. I wrote "The reason the 'Lost' Payment Racket works so well is because the main customer service line's phone system is atrocious... When I asked Ms. Maples to start putting correct phone numbers on notices so that people didn't waste over an hour calling the main service line only to be told that they needed to call a different phone number to a specialized department (I), her answer was NO (D)... This insures that the main customer service line is unnecessarily clogged up, guaranteeing long wait times. There was no way she was going to risk the 'Lost Payment Scheme' by making it easier to resolve these "lost payment" problems."

Enclosed is a post that I happened to stumble across on Reddit, written in July 2018, from someone begging for help in getting through to the Franchise Tax Board to resolve a "lost" payment problem. This is a "verified" account, so you should be able to get in touch with the author.

After weeks of trying the main customer service line, she finally got through, only to be told that the customer service department couldn't help her and she needed to call Collections...

I'd also like to note that in the Formal Resolution that Ms. Maples signed off on, the FTB wrote: "...In addition to the traditional hold functionality, we also offer real-time customer support via Live Chat as well as Virtual Hold service..." But in the Reddit post, the woman complained that Live Chat said they were unable to help her; she was told she needed to call the main service number. Note that Live Chat didn't tell her to call Collections, which was the appropriate department. She also complained that when she tried Virtual Hold, she never got a call back.

The fastest and easiest way to fix the FTB's problem of receiving more calls than they can handle at the main customer service line would be to put the phone number of the appropriate specialty department on the notices. Why would the FTB deliberately clog up their own phone lines if this wasn't Racketeering?

Also enclosed is a second post from Reddit, dated May 25, 2018, where the person also complains that the FTB "lost" a payment and he is unable to get through on the phone system to resolve the issue.

I found this on Reddit at:

https://old.reddit.com/r/tax/comments/8wdf8k/california_state_franchise_tax_board_double/

California State Franchise Tax Board double billing my LLC and there is no way to contact them (self.tax)

submitted 4 months ago * by PertKelly

Okay, so I am posting here out of last-resort-ness. I filed state and federal taxes for my LLC for 2017, in California, before the deadline. I owed money to the state, and I paid it digitally through the California Tax Board payment portal, and received not only a notice from the account that paid it, but from the California Board's electronic system including a confirmation number.

Despite this, I received a notice from the State Tax Board stating that I have not paid my taxes for 2017 and I owe penalties. I thought at first that since I filed and paid digitally, perhaps it takes a few months to properly be entered into the system so it appeared we hadn't paid when we actually had.

I have gotten additional notices, so I became concerned. I have tried and tried to get through to the customer service line, and it always says the system is overloaded and can't take my call and hangs up on me. Once I got through and it said the wait time was 5 hours. I was at work, so this was impossible and I had to hang up. I tried their online chat service for problem resolution and was told the only way to fix this is to talk to the actual customer service phone line. I found out I can visit my local field office in person and may have better results resolving this there, so have gone to their specific websites and attempted to make an appointment (they won't see you without an appointment) and there are either no appointments available or their website system doesn't work properly and the appointment app they use doesn't work. Also, you can't call a field office, you have to come in in person.

In the meantime, I am accruing penalties and desperately want to fix this. I have the info from my bank and the state's confirmation email about the payment, as well as any other info they need to see, and am open to jumping through whatever hoop I need to to get this resolved, but it seems like there are no hoops. No matter what I do, I can't gain access to actually speaking to anyone who can help me. If I write a snail mail letter, will customer service actually read it? I have no idea. Any ideas or suggestions are appreciated!

EDIT: just found a field office number and am attempting to make an appointment via calling.

EDIT 2: I finally got a human being on the phone. They confirmed that my company has a zero balance due and have no idea what is going on, but since it went to collections I have to talk to them at their separate customer service line. I called collections, and since the wait time to talk to someone was over an hour, I opted to have the computer voice system call me back, which was a nice option. Except that the system never called me back when my place in line came up. So, zero progress. Also waiting on a pin number to be mailed to me (what? Why do they do this?) so that I can access my account online.

From:

https://old.reddit.com/r/personalfinance/comments/8m3sce/ca_franchise_tax_board_says_i_owe_for_2017_llc/

CA Franchise Tax Board says I owe for 2017 LLC BUT I can see they cashed my check! Who do I call? (self.personalfinance)

submitted 5 months ago by lighthousekeep

The CA Franchise Tax Board sent me a letter saying I owe them my 2017 LLC annual tax plus a monthly and underpayment penalty. I have paid both my 2017 and 2018 LLC annual taxes and can see in my bank account that they were both cashed by the tax board within my online banking account. Every number I've called has been automated without an option to handle this issue. The letter says that if I do not pay by the end of this month I will be charged a collections fee. Any advice would be greatly appreciated.